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**MAR 03 2008**

In re Application of	:	<b>OFFICE OF PETITIONS</b>
Hatakeyama et al.	:	DECISION ON PETITION TO
Application Number: 10/588080	:	WITHDRAW HOLDING OF
Filing Date: 01/10/2007	:	ABANDONMENT
Attorney Docket Number:	:	
293482US0PCT	:	

This is a decision in reference to the "PETITION UNDER 37 C.F.R. § 1.137 TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE RESTRICTION REQUIREMENT," filed on January 23, 2008, which is treated as a petition to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Office action requiring restriction and/or election (hereinafter "the Office action") mailed on June 11, 2007. Notice of Abandonment was mailed on January 15, 2008.

Petitioners assert that the Office action mailed on June 11, 2007, was not received in that petitioners received an email notification on June 11, 2007, pursuant to the e-Office Action program, that outgoing correspondence in the subject application was available for downloading. When counsel's representative viewed the Private PAIR file, on the morning of June 11, 2007, however, the Office action was not available for downloading. Rather, only a Notice of Publication of Application was available for downloading. Petitioners further aver that they did not know of the mailing of the Office action until December 13, 2007.

Petitioners state that they were informed by the USPTO's Search and Information Resources Administration that the Office action had not been uploaded until the late evening of June 11, 2007.

A review of the Office Image File Wrapper electronic database reveals that, although the email notification was sent at 5:14 am

on June 11, 2007, the Office action was not uploaded until 4:20 pm of the same date. As such, the showing of record is that petitioners were not properly notified of the mailing of the Office action mailed on June 11, 2007, pursuant to the e-Office Action program in that the Office action was not available for uploading at the time the notification email was sent and Private PAIR was accessed by petitioners.

Therefore, the showing of record is that is no abandonment in fact.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The Office apologizes for any inconvenience to petitioner.

The application will be referred to the Technology Center Art Unit 1621 for remailing of the Office action mailed on Office of Patent Application Processing for further processing. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



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